

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

DARRYL L. FRANKE,

Plaintiff,

v.

CAROLYN COLVIN,
Commissioner, Social Security
Administration,

Defendant.

MOSMAN, J.,

No. 6:14-cv-01903-AC

OPINION AND ORDER

On November 9, 2015, Magistrate Judge Acosta issued his Findings and Recommendation (F&R) [22], recommending that the decision of the Commissioner should be REVERSED and this matter should be REMANDED to the Commissioner for the immediate calculation and payment of benefits to Plaintiff Franke. No objections to the Findings and Recommendation were filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, *de novo* or under any other standard, the factual or legal conclusions of

the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Acosta's recommendation and I ADOPT the F&R [22] as my own opinion.

IT IS SO ORDERED.

DATED this 30th day of November, 2015.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge